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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,082	05/12/2006	Marc Charles Berckmans	19790-009US1	6371
26191 7590 08/19/2010 FISH & RICHARDSON P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022				
EXAMINER				
DEGUIRE, KATHERINE E				
ART UNIT		PAPER NUMBER		
1781				
NOTIFICATION DATE		DELIVERY MODE		
08/19/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

# Office Action Summary

**Application No.**

10/579,082

**Applicant(s)**

BERCKMANS ET AL.

**Examiner**

Katherine DeGuire

**Art Unit**

1781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI.08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Interval Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

### **DETAILED ACTION**

Note: Examiner of record has been changed from Andrew Krause to Katherine DeGuire.

#### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 1-16 and 20 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Idaszak (US 4021927) in view of Vezzani(EP 0710670 A1).**

Claims 1-16 and 20 remain rejected for the reasons set forth in the previous action.

#### ***Response to Arguments***

Applicant's arguments filed 06/15/2010 have been fully considered but they are not persuasive.

As stated in the previous office action it would have been obvious to modify the reactor of the '927 to contain one or a plurality of blades that conveys the starch from an inlet at a first end of the reactor to an outlet at a second end of the reactor. The purposed modification it is obvious because the "agitation applied by a rotor within the reactor favors the completion of the modification reaction," as stated in the previous action.

The applicant argues that "A skilled artisan would have readily understood that adding the countercurrent of air flow as taught by the '927 patent would disrupt the 'thin, dynamic layer' taught by the '670 patent, thereby reducing or eliminating any reaction

efficiency achieved by centrifugal force created by the blades. Thus, methods of the '927 patent and the '670 patent are not compatible with each other." Despite, the applicant's argument, the rejection is maintained.

The applicant has provided no persuasive reason as to why the modification would not have been proper. The rationale provided states that the counter current of air in the '927 reference would reduce or eliminate the need for a rotating shaft with a plurality of blades. However, the '927 reference already teaches an agitation means in combination with a counter current of air. Since the rotor serves as an effective agitation means that completes the reaction, it would have been obvious to add it to the '927 reactor in order to convey the starch from the inlet to the outlet. Ultimately, the applicant has not provided a specific reason as to why the agitation means of a multi bladed rotor would have been non-obvious.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katherine DeGuire whose telephone number is (571)270-1136. The examiner can normally be reached on Monday through Friday 9-5:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Katherine DeGuire/  
Examiner, Art Unit 1781

/Keith D. Hendricks/  
Supervisory Patent Examiner, Art Unit 1781